

1 HOWARD B. GROBSTEIN
2 hbgtrustee@gtllp.com
3 9363 Magnolia Avenue
4 Riverside, California 92503
5 Telephone: 951-234-0951
6 Facsimile: 951-684-2363

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8 Chapter 7 Trustee

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re:

Case No. 6:22-bk-13661-SY

ALMA SERNA ARREOLA,

Chapter 7

Debtor.

**NOTICE OF MOTION AND MOTION
FOR AN ORDER AUTHORIZING THE
CHAPTER 7 TRUSTEE TO LEAVE
ESTATE ASSETS UNADMINISTERED;
DECLARATION OF HOWARD B.
GROBSTEIN IN SUPPORT THEREOF**

[NO HEARING REQUIRED]

TO THE HONORABLE SCOTT H. YUN, UNITED STATES BANKRUPTCY JUDGE;
THE OFFICE OF THE UNITED STATES TURSTEE; THE DEBTOR AND ALL
INTERESTED PARTIES:

PLEASE TAKE NOTICE that Howard B. Grobstein, Chapter 7 Trustee (“Trustee”) for
the bankruptcy estate (the “Estate”) of Alma Serna Arreola (“Debtor”), hereby submits his motion
(the “Motion”), pursuant to 11 U.S.C. §105 and §554(c), for an order authorizing the Trustee to
leave the Estate’s interest in a wrongful termination claim against MCO, Inc. (“MCO Claim”), and
a personal injury claim against Nike, Inc. (“Nike Claim”) (collectively the “Lawsuits”)
unadministered.

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1 **PLEASE TAKE FURTHER NOTICE** that the relief requested in the Motion is based on
2 the Motion, this Notice, the attached Memorandum of Points and Authorities and Declaration of
3 Howard B. Grobstein, and any additional evidence and arguments that may be presented at or prior
4 to any hearing on the Motion.

5 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-
6 1(o), the Trustee is requesting that the Bankruptcy Court grant the relief requested in the Motion
7 upon notice and an opportunity to request a hearing. Local Bankruptcy Rule 9013-1(o)(1) requires
8 that any response to the Motion and request for hearing must be filed with the U.S. Bankruptcy
9 Court located at 3420 Twelfth Street, Riverside, California 92501, and served on the Trustee
10 Howard B. Grobstein, at the address provided in the upper left-hand corner of this document, and
11 the Office of the United States Trustee located at 3801 University Avenue, Suite 720, Riverside,
12 California 92501, within 14 days after the date of service of this Notice, plus 3 additional days if
13 the notice was served by mail, electronically, or pursuant to F.R.Civ.P. Rule 5(b)(2)(D), (E), or
14 (F). Your opposition must comply with LBR 9013-1(f) and (o). The Trustee will set a hearing
15 date and send out notice thereto if any such response is timely received. No hearing will be held if
16 no response and request for hearing is received.

17 **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-
18 (1)(h), failure to file and serve a timely response may be deemed consent to the granting of this
19 Motion.

20 DATED: January 27, 2023

21 By:

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23 HOWARD B. GROBSTEIN
24 Chapter 7 Trustee

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I. **BACKGROUND FACTS**

1. On September 29, 2022 (the “Petition” Date”), Alma Serna Arreola (“Debtor”) filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code, which was assigned Case No. 6:22-bk-13661-SY. Shortly thereafter, Howard B. Grobstein (“Trustee”), being duly qualified, was appointed as Chapter 7 Trustee of the Debtor’s bankruptcy estate.

2. The Debtor included as an asset on her Schedule B, the MCO Claim with an unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in the MCO Claim in the amount of \$13,800.00 under 11 U.S.C. § 522(d)(5).

3. The Debtor included as an asset on her Schedule B, the Nike Claim with an unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in the Nike Claim in the amount of \$27,900.00 under 11 U.S.C. § 522(d)(11)(D).

4. Based upon his investigation into the value, likelihood of recovery, and taking into consideration the exemptions claimed by the Debtor, the Trustee has determined that the cost of litigating the Lawsuits may result in the estate becoming administratively insolvent, however, he would like to ensure that in the event the Debtor is able to recover an amount exceeding the Debtor's claimed exemptions from the Lawsuit, the Debtor's bankruptcy estate would retain an interest in the recovery.

5. There are no other assets of the bankruptcy estate, and the Trustee is prepared to file his no asset report following entry of an order approving the within motion.

II. ARGUMENT

Section 554(c) of the Bankruptcy Code states: “Unless the court orders otherwise, any property scheduled under section 521(a)(1) of this title not otherwise administered at the time of the closing of a case is abandoned to the debtor and administered for purposes of section 350 of this title.”

Section 554(d) of the Bankruptcy Code states: “Unless the court orders otherwise, property of the estate that is not abandoned under this section and that is not administered in the case remains property of the estate.”

1 The Trustee respectfully moves this Court for entry of an order providing that the
2 Lawsuits shall remain unadministered property of the Estate, even after this case is closed.

3 The Trustee does not wish to keep this chapter 7 case open indefinitely allowing
4 administrative fees to further accrue and with no certainty of recovery for the Estate from the
5 Lawsuits. However, the Trustee also does not wish to abandon the Lawsuits, in the event recovery
6 is possible at a later time. Therefore, the Trustee believes that it is in best interests of the Estate to
7 leave the Lawsuits unadministered, and, if recovery becomes likely, the Trustee will move to
8 reopen the case to administer the asset at that time. Upon entry of an order approving this Motion,
9 the Trustee will proceed with the filing of his no asset report in this case.

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11 **III. CONCLUSION**

12 Based upon the foregoing, the Trustee respectfully requests that the Court enter an order:

- 13 1. Approving the Motion;
- 14 2. Authorizing the Trustee to leave the Lawsuits unadministered, to be administered in
the future, if and when the asset becomes collectable;
- 16 3. Granting such other and further relief as the Court deems just and proper.

17 Dated: January 27, 2023

18 By:

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HOWARD B. GROBSTEIN
Chapter 7 Trustee

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DECLARATION OF HOWARD B. GROBSTEIN

I, Howard B. Grobstein, declare as follows:

3 1. I am the duly appointed and acting Chapter 7 trustee for the bankruptcy estate of Arthur
4 Robert Townsend, Jr. and Janis Irene Townsend (“Debtors”). As such, I have personal knowledge of
5 the matters set forth herein and if called as a witness I could and would testify competently thereto.

6 2. On September 29, 2022 (the “Petition” Date”), Alma Serna Arreola (“Debtor”) filed
7 a Voluntary Petition under Chapter 7 of the Bankruptcy Code, which was assigned Case No. 6:22-
8 bk-13661-SY. Shortly thereafter, being duly qualified, I was appointed as Chapter 7 Trustee of the
9 Debtor’s bankruptcy estate.

10 3. The Debtor included as an asset on her Schedule B, the MCO Claim with an
11 unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in
12 the MCO Claim in the amount of \$13,800.00 under 11 U.S.C. § 522(d)(5).

13 4. The Debtor included as an asset on her Schedule B, the Nike Claim with an
14 unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in
15 the Nike Claim in the amount of \$27,900.00 under 11 U.S.C. § 522(d)(11)(D).

16 5. Based upon my investigation into the value, likelihood of recovery, and taking into
17 consideration the exemptions claimed by the Debtor, I have determined that the cost of litigating
18 the Lawsuits may result in the estate becoming administratively insolvent, however, I would like to
19 ensure that in the event the Debtor is able to recover an amount exceeding the Debtor's claimed
20 exemptions from the Lawsuit, the Debtor's bankruptcy estate would retain an interest in the
21 recovery.

22 6. There are no other assets of the bankruptcy estate, and I am prepared to file my no
23 asset report following entry of an order approving the within motion.

24 I declare under penalty of perjury under the laws of the United States of America that the
25 foregoing is true and correct and that this declaration was executed on January 27, 2023, at
26 Malibu, California. 

HOWARD B. GROBSTEIN
Chapter 7 Trustee

1 PROOF OF SERVICE OF DOCUMENT

2 I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business
3 address is: **P.O. Box 253, Woonsocket, RI 02895**

4 A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION FOR AN**
ORDER AUTHORIZING THE CHAPTER 7 TRUSTEE TO LEAVE ESTATE ASSETS UNADMINISTERED;
DECLARATION OF HOWARD B. GROBSTEIN IN SUPPORT THEREOF and **PROOF OF SERVICE** will be
5 served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)**
in the manner stated below:

6 **1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** – Pursuant to controlling
7 General Order(s) and LBR, the foregoing document will be served by the court via NEF and hyperlink to the
document. On January 30, 2023, I checked the CM/ECF docket for this bankruptcy case or
8 adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to
receive NEF transmission at the email address(es) indicated below:

9

- Arvind Nath Rawal on behalf of Creditor Exeter Finance LLC c/o AIS Portfolio Services, LLC arawal@aisinfo.com
- Benjamin Heston on behalf of Debtor Alma Serna Arreola bhestonecf@gmail.com
benheston@recap.email,NexusBankruptcy@jubileebk.net
- Howard B Grobstein (TR) hbgtrustee@gtllp.com C135@ecfcbs.com
- United States Trustee (RS) ustpregion16.rs.ecf@usdoj.gov

12 **2. SERVED BY UNITED STATES MAIL:**

13 On January 30, 2023, I served the following person(s) and/or entities at the last known
14 addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a
sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the
15 judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the
document is filed.

16 Debtor Honorable Scott H. Yun
Alma Serna Arreola United States Bankruptcy Court
149 Sir Damas Drive Central District of California
Riverside, CA 92507-6915 3420 Twelfth Street, Suite 345
Riverside, CA 92501-3819

19 Counsel re: MCO, Inc. Counsel re: Nike, Inc.
Jihad M. Smaili Law at Your Side
20 SMAILI & ASSOCIATES 555 W. 5th Street, 35th Floor
21 2114 North Broadway, Suite 200 Los Angeles, CA 90013
Santa Ana, CA 92706

Service information continued on attached page

22 **3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state
23 method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____
_____ I served the following person(s) and/or entities by personal delivery, overnight mail service, or (for those
24 who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the
judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed
25 no later than 24 hours after the document is filed.

26 I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

27 January 30, 2023
Date

Denise Weiss
Printed Name

Denise Weiss
Signature

Label Matrix for local noticing

Exeter Finance LLC to AIS Portfolio Service

Riverside Division

0973-6

4515 N Santa Fe Ave. Dept. APS

3420 Twelfth Street,

Case 6:22-bk-13661-SY

Oklahoma City, OK 73118-7901

Riverside, CA 92501-3819

Central District of California

No US Mail Service Copy

Riverside

Mon Jan 30 08:27:43 PST 2023

24 Hour Fitness

Acima Credit

(p)BANK OF AMERICA

Member Services

9815 South Monroe Street

PO BOX 982238

PO Box 2689

4th Floor

EL PASO TX 79998-2238

Carlsbad, CA 92018-2689

Sandy, UT 84070-4384

Capital Bank N.A.

Capital One

Challenge Financial Services

One Church Street

Attn: Bankruptcy

1004 West Taft Avenue, Suite 100

Suite 100

Po Box 30285

Orange, CA 92865-4143

Rockville, MD 20850-4190

Salt Lake City, UT 84130-0285

Exeter Finance, LLC

Jenna Village Apartments

(p)OPORTUN INC

Attn: Bankruptcy

488 Aster Street #200

PO BOX 560880

P.O. Box 166008

Springfield, OR 97478

THE COLONY TX 75056-0880

Irving, TX 75016-6008

Progressive Leasing

(p)SMILEDIRECTCLUB

Smile Direct Club

807 South Flower Street

ATTN LEGAL

4910 Hammer Avenue

Los Angeles, CA 90017-4607

414 UNION ST 8TH FLOOR

Eastvale, CA 91752-1046

NASHVILLE TN 37219-1757

Spectrum

Summer Meadows Apartment

United States Trustee (RS)

PO Box 60074

3429 Rustin Avenue

3801 University Avenue, Suite 720

City of Industry, CA 91716-0074

Riverside, CA 92507-3894

Riverside, CA 92501-3255

No US Mail Service Copy

Verizon Wireless

Benjamin Heston

Attn: Bankruptcy Administration

100 Bayview Circle, Suite 100

500 Technology Drive, Suite 500

Newport Beach, CA 92660-2963

Saint Charles, MO 63304-2225

No US Mail Service Copy

Alma Serna Arreola

149 Sir Damas Drive

Riverside, CA 92507-6915

Howard B Grobstein (TR)

Grobstein Teeple, LLP

9363 Magnolia Avenue

Riverside, CA 92503-3747

No US Mail Service Copy

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Bank of America

Smile Direct Club

PO Box 982235

414 Union Street Suite 800

El Paso, TX 79998

Nashville, TN 37219

Oportun

Attn: Bankruptcy

Po Box 4085

Menlo Park, CA 94026

End of Label Matrix

Mailable recipients 21

Bypassed recipients 0

Total 21